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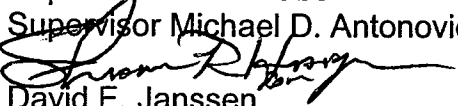
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June 1, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich
From: 
David E. Janssen
Chief Administrative Officer

**REPORT TO THE BOARD ON THE FRED C. NELLES CORRECTIONAL FACILITY,
LOCATED IN THE CITY OF WHITTIER, AS REQUESTED AT THE MAY 22, 2007
BOARD MEETING (RELATES TO ITEM NO. 74, AGENDA OF JUNE 5, 2007)**

Background

Nelles opened as a State reform school back in 1890 in the City of Whittier and is the oldest facility in the California Youth Authority system. Originally, it housed boys and girls but as young criminals became more violent, the girls were sent to a separate facility and this facility was renamed after a reform-minded superintendent, Fred C. Nelles Youth Correctional Facility (Nelles). Nelles was rebuilt in 1945 to accommodate a rising population of youthful offenders. The property is approximately 73 acres, and is the largest piece of land available for development in or around Whittier.

Facility Closure

The Governor's 2004-05 Proposed Budget called for closure of the Nelles facility and the Legislative Analyst's Office (LAO) recommended approval of the proposal because of the substantial decline in the ward population and the resulting excess capacity of the system. The LAO further indicated that the facility should be closed because it was old, was expensive to maintain, and had high operating costs. During this time, the State was looking for ways to close the budget gap and found out that it could save money by closing Nelles.

The State closed Nelles in 2004 after determining that its closure would save \$74 million in deferred maintenance costs and \$14 million in annual operating expenses. Also in 2004, AB 2190 (Calderon) would have granted the City of Whittier the right of first refusal to purchase the Nelles property; however, the bill died in the Senate Governmental Organization Committee. The author indicated in the Senate Public Safety Committee analysis of AB 2190 that the closure of the facility would stimulate the local economy and provide an opportunity to develop the land which would be critical to the housing, governmental, retail and commercial needs of the community.

Ever since the closure of the facility, there have been concerns by Whittier residents and its elected representatives that the State would turn Nelles into a prison in order to help relieve overcrowding in the prison system. Long before the closure of the facility, the City of Whittier was interested in acquiring this property from the State to prevent it from being used for another State purpose and to promote economic development in the area. Whittier has been concerned about existing law which allows another State agency to decide that surplus property has some reuse value and could continue to use it for some kind of institutional use.

Surplus Property

The property is still owned by the State of California and was declared as surplus State property. The surplus property program authorizes the State Department of General Services (DGS) to dispose of land that California no longer needs. State agencies report to DGS all proprietary lands under their jurisdiction in excess of their foreseeable needs. Upon request of the DGS, jurisdiction of any land reported as surplus is transferred to DGS for sale or disposition. Surplus land includes land not currently being utilized or being underutilized by the agency, land for which a State agency has not identified any specific utilization relative to future programmatic needs, and land not identified by the State agency within its master plans for facility development.

If the surplus property is not needed by any State agency, DGS can seek legislative authorization to sell or dispose of surplus property upon terms and conditions deemed by DGS to be in the best interests of California. Once the land is declared surplus and authorized for sale by the Legislature, DGS must first offer the property to local governments at fair market value. The surplus property can be sold to local government for less than fair market value if it is for the following purposes: parks and recreational space, open space, low-and-moderate-income housing, and schools.

If the land is sold at less than fair market value, the contract must provide for the reversion of the land back to the State if the intended purpose for which the property was sold is not achieved. The Legislature can also direct DGS to sell specified properties at less than fair market value in the annual surplus property legislation. Funds from the sale of surplus property are paid to the General Fund. Any sale is

subject to any other terms, conditions, reservations, and exemptions as the department may deem to be in the best interests of the State.

Historical Landmark

In addition, Nelles is listed on the California Register, which is an authoritative guide to the State's historical resources. Nelles is also listed with the Office of Historic Preservation (OHP) as State historical landmark number 947. The fact that Nelles is a historic landmark somewhat complicates the process of how and what the land can be used for. Furthermore, there is even rumor of an old cemetery on this facility and that also would have to be evaluated to determine if it is Native-American or just some of the staff and wards who were residents here in the past.

According to the OHP, if a historic landmark is sold, the buyer has to meet with a State historic resource officer and present the buyer's plan of what the buyer wants to do with the land. The officer then will review the plan and make suggestions or changes they feel are needed. In large part, the officer is guided by Public Resources Code Section 5024.5. This section states that no State agency shall "transfer, relocate, or demolish historical resources on the master list ... without, early in the planning processes, first giving notice and summary of the proposed action to the officer..." Public Resources Code Section 5024.5 further states, "if the officer determines that a proposed action will have an adverse effect on a listed historical resource, the head of the State agency having jurisdiction over the historical resource and the officer shall adopt prudent and feasible measures that will eliminate or mitigate the adverse effects."

With respect to the proposed sale of Nelles, OHP stated that simply because a building is a historic landmark does not mean that it has to be preserved, only that preservation has to be a consideration. Furthermore, because Nelles is on the California Register, Nelles is considered a property that is significant for purposes of the California Environmental Quality Act. However, it appears that these issues will not have a significant impact on the proposed sale of the property in the future because the property was recently in escrow.

Redevelopment Plans

Sometime around 2001, Whittier began to look at adopting a Whittier Boulevard Commercial Corridor Specific Plan for development of the entire seven-mile stretch of Whittier Boulevard within the city, including the Nelles property, even before the declaration that Nelles might be considered surplus property. This began the City's efforts to determine the best potential uses for approximately 75 acres which might be purchased given the City's desire to maximize the property in ways that create opportunity for the City. The property is currently zoned for retail and for residential use.

The County concluded that the Redevelopment Agency in Whittier provided sufficient evidence of blight, and the Agency adopted the project. The County is interested in the status of the Nelles site, as the potential sale of the site from the State to a developer would have impacts on the base year values of the project and future computation of tax increment. The Nelles property has been off the tax rolls for roughly 100 years and carries a current value of about \$4.8 million. Although it is unlikely, we have concerns that the State not sell the property below market value. If so, we would have to take action to ensure that the base year value of the property is adjusted to reflect the higher value, all to the benefit of taxing entities.

Potential Sale of Nelles

In 2006, Whittier residents and the business community were successful in stopping a State legislative effort to reactivate the Fred C. Nelles Correctional Facility. In accordance with the State's policy to first offer the property to local governments at fair market value, the City of Whittier was given an opportunity to purchase the property. However, the City Council lost a bid for the now closed facility. The City and State disagreed on the price of the Nelles property and the State put it up for bid, eventually selecting Meruelo Maddux Properties of Los Angeles. We were advised by staff at the DGS that the City of Whittier made too low of an offer for the property, and the State rejected the offer.

The proposed sale price for Meruelo Maddux Properties was \$107 million. However, a few days before the close of escrow to transfer the property to Meruelo Maddux Properties, the State pulled the property off of the market. The property was pulled back by the Department of Corrections pending review by that department for potential use as a correctional facility or temporary use for bed space. Originally, plans for this property were part of the Governor's master plan to build more prisons across California.

At the present time, the Nelles property is technically still on the surplus property list but cannot be sold until the State Department of Corrections releases the property after the adult and juvenile justice reforms are concluded. As indicated previously, if the State decides to sell this property in the future, it would first be offered to the initial buyer (Meruelo Maddux Properties) before it would be put back out for bid.

Legislation

Over the past several years, the City of Whittier has sponsored several bills that would have given the City the right of first refusal to purchase the property on which Nelles is located at fair-market value, but none of them have passed. The most recent attempt is SB 575 (Calderon), which is a spot bill that states legislative intent to facilitate the sale of the Fred C. Nelles property. This measure is a two-year bill and is currently in the Senate Rules Committee awaiting referral to a policy committee. However, the author

is considering moving the bill forward this year, and making it an urgency measure which would be effective upon the Governor's signature.

Senator Calderon's staff further indicated that he is in negotiations with the Governor to obtain a commitment that the facility will not be re-opened as a correctional facility as part of the correctional reform process.

County Impact

Although Nelles is located in an unincorporated area within the County, it is currently under the control of the State, and the County does not have any land use or zoning authority over this property. Because the property is owned by the State, all decisions impacting the property are under the State's jurisdiction.

In the Probation Department's May 25, 2007 report to the Board on Governor Schwarzenegger's Proposed Juvenile Justice Initiative, they indicated that the vacant Fred C. Nelles State Correctional facility would not be used to house the estimated 200 to 300 additional youths as a result of the Governor's proposal. The Probation Department indicates the Governor's proposal does not impact the proposed legislation for the sale of the Nelles property to a non-correctional facility. The Probation Department has indicated that they have adequate housing and do not need the use of the Nelles facility, even with the anticipated enhanced responsibility of the Governor's Initiative.

There has been an overall reduction in the average daily camp population for the last few years. In 2001, the average monthly population at camps was about 2,250, whereas in 2006 it was 1,591, a 29.3 percent reduction. This number continues to decline. Thus far in 2007, the average monthly population at camps is 1,521, a five percent reduction from 2006, or a 514 bed vacancy from the current capacity of 2,035 beds. We have not had an opportunity to survey other County departments for other potential uses of this property.

If the State does not use Nelles for any reform purpose, it appears likely that this property will be sold to Meruelo Maddux Properties. If they decline the purchase, it would most likely be sold on the open market at market value, giving the City of Whittier another opportunity to purchase the property as well.

DEJ:GK/DL
EW:hg

c: Executive Officer, Board of Supervisors
County Counsel
Probation Department